

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**

3050 K ST. N.W., SUITE 101  
WASHINGTON, DC 20007-5108  
TELEPHONE: 202-338-1325  
FAX: 202-672-5399

SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM



September 8, 2006

Vernon A. Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street, N.W.  
Washington, DC 20423-0001

**FEE RECEIVED**  
SEP - 8 2006  
SURFACE  
TRANSPORTATION BOARD

**Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—  
Abandonment Exemption – in Flathead, MT**

Dear Secretary Williams:

Enclosed please find an original and 10 copies of the Verified Notice of Exemption under 49 C.F.R. 1152.50 for filing with the Board in the above-referenced matter.

Also enclosed is a check in the amount of \$3,100.00 for the filing fee.

Very truly yours,

Sidney L. Strickland, Jr.  
Attorney for BNSF Railway Company

ENTERED  
Office of Proceedings

SEP 8 - 2006

Part of  
Public Record

**FILED**  
SEP - 8 2006  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD



BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN FLATHEAD COUNTY

DOCKET NO. AB-6  
(SUB. NO. 444X)

VERIFIED NOTICE OF EXEMPTION  
UNDER 49 C.F.R. § 1152.50

217522

BNSF RAILWAY COMPANY  
2650 Lou Menk Drive  
P.O. Box 96157  
Fort Worth, TX 76161-0057

By: SIDNEY L. STRICKLAND, JR  
ELIZABETH E. WAITE  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 338-1325

Attorneys for BNSF Railway Company

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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN FLATHEAD COUNTY, MT**

**DOCKET NO. AB-6  
(SUB. NO. 444X)**

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**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 C.F.R. § 1152.50**

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BNSF RAILWAY COMPANY (BNSF) ("Applicant") files this Verified Notice of Exemption under 49 C.F.R. 1152 Subpart F- Exempt Abandonments 49 C.F.R. 1152.50) for BNSF to abandon a rail line that extends between Engineering Station 189 + 36 and Engineering Station 167 + 00, near Kalispell in Flathead County, Montana (the "Line").

The Line is depicted in a map that is attached to this Notice as Appendix 1.

**Responses to 49 C.F.R. § 1152.50(d)(2):**

I. *Proposed consummation date for the abandonment.*

The proposed consummation date of this abandonment will be at least 50 days from the filing date of September 8, 2006, which is October 30, 2006.

II. *Certification required in 49 C.F.R. § 1152.50(b)*

The required certification is attached hereto as Appendix 2.

III. *Information required by 49 C.F.R. § 1152.22(a)(1-4), (7) and (8) and (e)(4).*

(a) General

- (1) Exact name of Applicant.
- BNSF Railway Company (BNSF).
- (2) *Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.*
- Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.
- (3) *Relief sought (abandonment of line or discontinuance of service).*
- BNSF seeks to use the class exemption from Surface Transportation Board approval authorizing the abandonment of the Flathead County Line specified above.
- (4) *Detailed map of the subject line.*
- See Appendix 1.
- (7) *Name, title and address of representative of applicant to whom correspondence should be sent:*
- Sidney L. Strickland, Jr.  
Sidney Strickland And  
Associates, PLLC  
3050 K Street, N.W.  
Suite 101  
Washington, DC 20007  
(202) 338-1325
- Attorney for BNSF
- (8) *List of all United States Postal Service ZIP Codes that the line traverses.*
- The Line traverses United States Postal Service Zip Code 59901.
- (e)(4) *Statement of whether the properties proposed to be abandoned are suitable for other public purposes, including roads or highways,*

*other forms of mass transportation, conservation, energy production or transmission or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.*

The properties of the proposed abandonment appear to be appropriate for other public purposes. Based on information in our possession, there are no federally granted rights-of-way within the corridor. Any documentation in the railroad's possession will be made available promptly to those requesting it.

IV. *Level of Labor Protection.*

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in *Oregon Short Line RR Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

V. *Certification that Applicants have complied with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11.*

The required certifications are set forth in Appendix 3 to this Notice of Exemption.

VI. *Environmental and Historic Reports.*

A combined Environmental and Historic Report is attached to this Notice of Exemption as Appendix 4.

Respectfully submitted,

BNSF RAILWAY COMPANY  
2650 Lou Menk Drive  
P.O. Box 96157  
Forth Worth, TX 76161-0057



By: SIDNEY L. STRICKLAND, JR.  
ELIZABETH E. WAITE  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 338-1325

Attorneys for BNSF Railway Company

DATE FILED: September 8, 2006

## **APPENDIX 1**

### ***Detailed Map of the Line***

# KALISPELL, MONTANA TRACKAGE

ES 189 + 36  
ES 167 + 00

KALISPELL

LEAD TRACK OFF LINE SEGMENT 388

NORTH

## **APPENDIX 2**

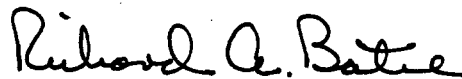
***Certifications Required in 49 C.F.R. § 1152.50(b)***

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS  
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

I, Richard A. Batie, being duly sworn depose and state that, as Manager, Network Development in the Network Development department of the BNSF Railway Company ("BNSF"), I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

In accordance with 49 C.F.R. § 1152.50(b), I hereby certify that, with respect to the line which is the subject of the Notice of Exemption filed in Docket No. AB-6 (Sub-No. 444X), no local traffic has moved on the line for at least two (2) years prior to the date hereof. Also, there is no overhead traffic handled on the Line to be rerouted. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned



Richard A. Batie  
Manager, Network Development

Subscribed and sworn to  
before me the 30 day of August, 2006.





## **APPENDIX 3**

***Certifications that Applicant Has Complied with the Notice Requirements  
of 49 C.F.R. 1152.50(d)(1) and 1105.11***

## CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-6 (Sub. No. 444X) was mailed via first class mail on August 24, 2006 to the following parties:

State of Montana  
Public Service Commission  
1701 Prospect Ave.  
P.O. Box 202601  
Helena, MT 59620-2601

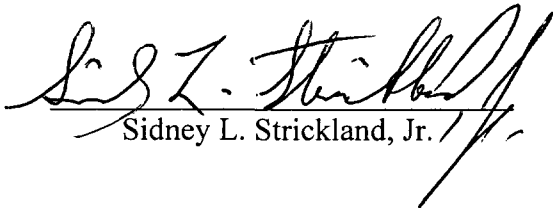
Military Traffic Management Control  
Attn: Railroads for National Defense  
720 Thimble Shoals Boulevard, #130  
Newport News, VA 23606-2574

U.S. Department of the Interior  
National Park Service  
Recreational Resources Assistance Division  
1849 C Street, NW  
Washington D.C. 20240-0001

U.S. Department of Agriculture  
Chief of the Forest Service  
4<sup>th</sup> Floor N.W., Yates Building  
201 14<sup>th</sup> Street, SW  
Washington, D.C. 20250

Jon Axline  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

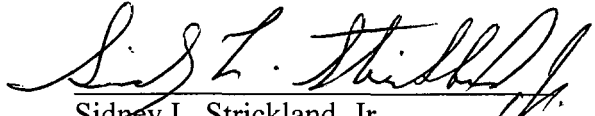
Dated September 8, 2006



Sidney L. Strickland, Jr.

**CERTIFICATION OF COMPLIANCE WITH THE NEWSPAPER  
PUBLICATION REQUIREMENTS OF SECTION 49 C.F.R. § 1105.12**

The undersigned certifies that a "Notice of Intent to Abandon Rail Service" was published in the form prescribed by the Board for out of service abandonment exemptions. The notice was published one time in the following newspaper of general circulation in Flathead County, Montana: *Daily Inter Lake*. Publication of the notice was accomplished on August 29, 2006. An Affidavit of Publication and a copy of the publication are attached.



Sidney L. Strickland, Jr.  
Sidney Strickland and Associates, PLLC

3050 K Street, NW  
Suite 101  
Washington, DC 20007  
Phone: (202) 338-1325  
Fax: (202) 672-5499

No. 10967

STB Docket No. AB-6  
(Sub. No. 444X)

**NOTICE OF INTENT  
TO ABANDON RAIL  
SERVICE**

**BNSF RAILWAY  
COMPANY (BNSF)** gives notice that on or about September 5, 2006, it intends to file with the Surface Transportation Board (the Board), Washington, DC, 20423, a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments permitting the abandonment of the 0.42 miles of railroad line between Engineering Station 189+36 and Engineering Station 167+00, in Kalispell in Flathead County, Montana. The rail line traverses through United States Postal Service Zip Code 59901. The proceeding will be docketed as STB Docket No. AB-6 (Sub. No. 444X).

The Boards Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemptions. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, N.W., Washington, DC 20423-0001. [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use, or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Sidney Strickland, Sidney Strickland and Associates, PLLC, 3050 K Street, Suite 101, Washington, DC, 20007-5108, (202) 338-1325.

August 29, 2006.

**STATE OF MONTANA**

**FLATHEAD COUNTY**

**AFFIDAVIT OF PUBLICATION**

**CHRIS SCHULDHEISS BEING DULY  
SWORN, DEPOSES AND SAYS: THAT SHE IS THE  
LEGAL CLERK OF THE DAILY INTER LAKE A  
DAILY NEWSPAPER OF GENERAL CIRCULATION,  
PRINTED AND PUBLISHED IN THE CITY OF  
KALISPELL, IN THE COUNTY OF FLATHEAD,  
STATE OF MONTANA, AND THAT NO. 10967**

**LEGAL ADVERTISEMENT WAS  
PRINTED AND PUBLISHED IN THE REGULAR AND  
ENTIRE ISSUE OF SAID PAPER, AND IN EACH AND  
EVERY COPY THEREOF ON THE DATES OF  
AUG 29, 2006**

**AND THE RATE CHARGED FOR THE ABOVE  
PRINTING DOES NOT EXCEED THE MINIMUM  
GOING RATE CHARGED TO ANY OTHER  
ADVERTISER FOR THE SAME PUBLICATION,  
SET IN THE SAME SIZE TYPE AND PUBLISHED  
FOR THE SAME NUMBER OF INSERTIONS.**

*Chris Schuldheiss*

Subscribed and sworn to  
Before me this **AUGUST 29, 2006.**

*Dorothy Glencross*



Notary Public for the State of Montana  
Residing in Kalispell  
My Commission expires 9/11/09

**CERTIFICATION PURSUANT TO 49 C.F.R.1105.7(c) and 8(c)**

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on August 14, 2006, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington D.C. 20423-0001

Dave White  
USDA Natural Resource Conservation Service  
443 Federal Building  
10 East Babcock Street  
Bozeman, MT 59715

Damon Murdo  
Montana Historical Society  
225 North Roberts  
P.O. Box 201202  
Helena, MT 59620-1202

Josef Warhank  
State Historic Preservation Office  
1410 8<sup>th</sup> Avenue  
P.O. Box 201202  
Helena, MT 59620-1202

U.S. Army Corps of Engineers  
Seattle District  
P.O. Box 3755  
Seattle, WA 98124-3755

U.S. Fish and Wildlife Service  
Region 6  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

Jamesa L. Dodd  
Water Protection Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620

Jean Ramer  
U.S. Army Corps of Engineers  
Helena Regulatory Office  
10 West 15<sup>th</sup> Street, Suite 2200  
Helena, MT 59626

Jim Sparks, Wildlife Biologist  
Bureau of Land Management  
Missoula Field Office  
3255 Fort Missoula Road  
Missoula, Montana 59801

Montana Fish, Wildlife & Parks  
1420 E. 6<sup>th</sup> Ave.  
P.O. Box 200701  
Helena, MT 59620-0701

Tom Jentz  
City of Kalispell Planning Department  
17-2nd Street East, Suite 211  
Kalispell, MT 59001

Kurt McCormick  
U.S. Environmental Protection Agency  
Region 8  
999 18th Street  
Suite 300  
Denver, CO 80202-2466

Flathead County Commissioners Office  
800 South Main  
Kalispell, MT 59901

Tom Stayert  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

Cheryl Eckhardt  
U.S. National Park Service  
Intermountain Region  
12795 Alameda Parkway  
Denver, CO 80228

Ben Conrad  
U.S. Fish and Wildlife Service, Region 6  
Kalispell Ecological Services Sub-Office  
780 Creston Hatchery Road  
Kalispell, MT 59901-8239

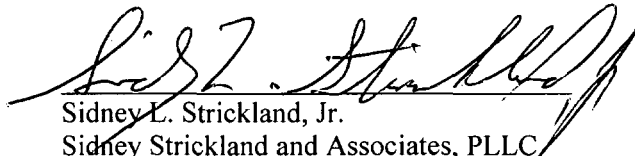
Gael Bissell, Wildlife Biologist  
Montana Fish, Wildlife, and Parks  
490 N. Meridian Road  
Kalispell, MT 59901

George Smith  
Flathead County Planning and Zoning Office  
1035 1st Avenue West  
Kalispell, MT 59901

National Oceanic and Atmospheric Administration  
National Geodetic Survey  
1315 East-West Highway  
Silver Springs, MD 20910-3282

Jon Axline  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.



Sidney L. Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K St. N.W.,  
Suite 101  
Washington, D.C. 20007

## **APPENDIX 4**

### ***Environmental and Historic Reports***

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN FLATHEAD COUNTY, MT**

**DOCKET NO. AB-6  
(SUB. NO. 444X)**

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**ENVIRONMENTAL AND HISTORIC REPORTS**

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BNSF RAILWAY COMPANY  
2650 Lou Menk Drive  
P.O. Box 96157  
Forth Worth, TX 76161-0057

By: SIDNEY L. STRICKLAND, JR.  
ELIZABETH E. WAITE  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 338-1325

*Attorneys for BNSF Railway Company*

DATED: August 14, 2006

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN FLATHEAD COUNTY, MT**

**DOCKET NO. AB-6  
(SUB. NO. 444X)**

**ENVIRONMENTAL AND HISTORIC REPORTS  
(49 C.F.R. 1105.7 AND 49 C.F.R. 1105.8)**

Pursuant to 49 C.F.R. § 1105.7 and § 1105.8, BNSF Railway Company (BNSF) (referred to as “Applicant”) hereby files Environmental and Historic Reports. These Reports constitute Applicant’s assessment of the environmental effects and historic effects of abandonment of rail service on the involved rail line. Persons who review these Reports are entitled to provide comments to the Surface Transportation Board (STB), Section of Environmental Analysis (SEA), 1925 K Street, N.W., Suite 500, Washington, DC 20423. There is information in the Applicant’s files to indicate that the rail line covered by these Reports does not contain a federally granted right-of-way. *See* 49 C.F.R. § 1152.60(d). These Reports have been prepared in conjunction with the prospective filing of a Notice of Exemption for abandonment of the involved rail line. STB regulations provide that the Notice of Exemption cannot be filed until at least 20 days after these Reports are submitted.

**I**  
**ENVIRONMENTAL REPORT**  
**(49 C.F.R. 1105.7)**

The following information is submitted to the STB by BNSF in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 +00, near Kalispell in Flathead County, Montana (the "Line").

**(1) Proposed Action and Alternatives:** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon this Line. The proposed abandonment may include removal of all rails and ties, including all bridges and structures. There are no bridges on the Line and BNSF is not aware of any other structures. A map of the Line is attached as Exhibit A.

**(2) Transportation System:** Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no effect on existing transportation systems or patterns as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

**(3) Land Use:**

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe

any inconsistencies.

The proposed abandonment should not be inconsistent with local or regional land use plans. The City of Kalispell (“City”) indicates the right-of-way is suitable for railbanking. The City further indicates there is an existing bike trail within an easement on the land proposed for abandonment and “this existing bike trail provides a connection between existing and future bike trails planned within the City and areas to the west and outside the city.” Finally, based on the above stated information, the City requests: “To obtain the land being abandoned...for the continued use of an existing city trail. The City of Kalispell acknowledges the fact that a future highway bypass will most likely require the majority of the land within the proposed abandonment, however the City is requesting those lands outside the highway right-of-way be turned over to the City.” The City indicates it is “willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way...” See Exhibit B, letter from Thomas R. Jentz, Planning Director, on behalf of the City of Kalispell.

Also, Tom Stayert of the Montana Department of Transportation (“MDOT”) was contacted regarding land use plans and indicates that the MDOT has no comments at this time. Mr. Stayert can be contacted at (406) 444-7646.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

The proposed abandonment should have no effect on prime agricultural lands. The Natural Resources Conservation Service (“NRCS”) (formerly known

as the U.S. Soil Conservation Service) states, “The proposed abandonment and associated removal of bridges, structures, ties, and rails will have no impact on important farmland since this land is considered to be previously converted farmland and the roadbed is to be left intact following abandonment.” See Exhibit C, letter from Dave White, State Conservationist, Natural Resource Conservation Service.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

The proposed abandonment may be suitable for alternative public use. As noted above, the City indicates it is interested in obtaining the land proposed for abandonment for trails use. See Exhibit B, letter from Thomas R. Jentz, Planning Director, on behalf of the City of Kalispell.

Also, Tom Stayert of the MDOT was contacted regarding alternative public uses and indicates that the MDOT has no comments at this time. Mr. Stayert can be contacted at (406) 444-7646.

**(4) Energy:**

(i) Describe the effect of the proposed action on transportation of energy resources.

There are no known recoverable energy resources along the Line. There has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(ii) Describe the effect of the proposed action on recyclable commodities.

This abandonment will not adversely affect movement or recovery of recyclable commodities as there has been no local traffic on the line for over two years and there is no overhead traffic to be rerouted.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in an increase or decrease in overall energy efficiency as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

**(5) Air:**

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

(B) An increase in rail yard activity of at least 100% (measured by carload activity), or

(C) An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the action will not involve an increase in truck traffic of more than

10% or 50 vehicles a day on any affected road segment as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic or more than 10% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the proposed abandonment will not result in an increase of rail or truck traffic as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not affect the transportation of ozone depleting materials.

**(6) Noise:** If any of the thresholds identified in item (5) (i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more,

N/A

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. There are no public crossings and no private crossings on the Line. During salvage operations, if any may be required, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

The abandonment will not result in the transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There is no known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way.

**(8) Biological Resources:**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The U.S. Fish and Wildlife Service (“FWS”) indicates there are no endangered species issues associated with this project area and thus the proposal should have no effect on such resources. The FWS further indicates, “Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in this project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under U.S. Fish and Wildlife Service jurisdiction.” Finally, FWS advises that Ashley Creek is located in proximity to the south of the project area and recommend that BNSF take appropriate measures if necessary to avoid or minimize impacts.” See Exhibit D, electronic correspondence from Ben Conrad, U.S. Fish and Wildlife Service.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The National Park Service (“Service”) reviewed the project and determined that no parks will be affected. The Service has no further comments. See Exhibit E, letter from Cheryl Eckhardt, National Park Service.

The Bureau of Land Management (“BLM”) states that the BLM does not have surface jurisdiction in the proposed project area, but recommends that BNSF contact Ben Conrad at the FWS. See Exhibit F, electronic correspondence from Jim Sparks, Wildlife Biologist, Missoula Field Office, Bureau of Land Management. As indicated above, we contacted Ben Conrad in preparing these Reports.

Finally, Montana Fish, Wildlife, and Parks indicates (“MFWP”) via phone call from Gael Bissell, Wildlife Biologist, that there is one (1) state park one (1) mile from the proposed abandonment but is not considered to be in the immediate area. MFWP further indicates there are no refuges in the immediate area. Finally, MFWP states that the only species in the area are likely to be bald eagles along Ashley Creek but there is likely to be no nesting. Ms. Bissell can be contacted at: Montana Fish, Wildlife, and Parks, 490 N. Meridian Road, Kalispell, MT, 59901, (406) 715-4580.

**(9) Water:**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The proposed exemption should be consistent with applicable Federal, State or local water quality standards. The Montana Department of Environmental Quality (“MDEQ”) indicates that a typical permit that may be required for an abandonment is a state 318 authorization that addresses in-stream or bank disturbances that create turbidity. See Exhibit G, electronic correspondence from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality. The MDEQ further indicates it is required under Section 75-5-402 of the Montana Water Quality Act to examine plans and other information to determine whether a permit is required, but is unable to determine what permits are necessary for the project. The MDEQ provided a fact sheet that describes water quality related permits for construction activities. Finally, MDEQ indicates that facilities which operate under an MPDES or Montana Ground Water Pollution Control System (MGWPCS) permit have

specific notification requirements. See Exhibit H, letter from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

The proposed abandonment will not require a Section 404 permit. The U.S. Army Corps of Engineers (“CORPS”) indicates, via telephone call from Jean Ramer, Project Manager for the Helena Regulatory Office, that a 404 permit will not be required because the project does not require placing fill materials into any aquatic areas. Ms. Ramer can be contacted at: U.S. Army Corps of Engineers, Helena Regulatory Office, 10 West 15<sup>th</sup> Street, Suite 2200, Helena, Montana, 59626, (406) 441-1376.

In regard to designated wetlands, the Corps indicates that based on National Wetlands Inventory (NWI) maps, it does not appear that any wetlands exist within the project area. See Exhibit I, electronic correspondence from Jean Ramer, Project Manager, Helena Regulatory Office, Army Corps of Engineers.

The proposed abandonment should not affect any 100-year flood plains. The Flathead County Planning and Zoning Office provided a flood insurance map for the proposed abandonment area but did not make a specific flood plain determination. See Exhibit J, fax transmission and map from George Smith, Flathead County Planning and Zoning Office, 1035 1<sup>st</sup> Avenue West, Kalispell, MT, 59901.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection

or equivalent agency if they are unsure whether such permits are required).

A permit under Section 402 of the Clean Water Act may be required for the proposed action. As stated above, the MDEQ indicates it is unable to determine which permits are necessary for the project, but it provided a fact sheet that describes water quality related permits for construction activities. See Exhibit H, letter from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality.

Also, the U.S. Environmental Protection Agency (“EPA”) indicates via phone conversation with Kurt McCormick that the state EPA program should be contacted in regards to Section 402 permits. Mr. McCormick can be contacted at: U.S. Environmental Protection Agency, Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466, (303) 312-6377.

**(10) Proposed Mitigation:** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

The project itself should mitigate the environmental effects of reinstating active rail operations.

## II

### HISTORIC REPORT (49 C.F.R. 1105.8)

Applicants hereby submit the following information required by 49 C.F.R. § 1105.8(d):

- (1) *A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;*

The required topographic map is attached to this Report as Exhibit A.

- (2) *A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;*

The 0.42 mile Kalispell, MT Trackage is located on the west side of Kalispell, MT, a city in northern Montana with a population of 14,223 residents in the year 2000. The land in the area of the Line is generally flat and rural in nature. Much of the surrounding area is forested. The right of way is 100 feet in width.

There are no federally granted rights of way involved.

- (3) *Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;*

There are no railroad structures on the property that are 50 years old or older.

- (4) *The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;*

N/A

- (5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;*

The right of way was acquired by the Great Northern Railway (GN) in 1891. The GN was merged into The Burlington Northern Railroad (BN) in 1970. BN and The Atchison Topeka & Santa Fe Railway merged in 1995 to become The Burlington Northern & Santa Fe Railway Company (BNSF). In 2005, BNSF changed its name to BNSF Railway Company.

- (6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;*

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

- (7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);*

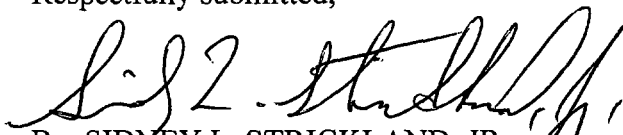
The Montana Historical Society ("MHS") initially indicated it conducted a file search for the project and found that site 24FH0350 is the historic Great Northern Railroad and is eligible for listing on the National Register of Historic Places and concluded that the abandonment and removal of track materials may

have an adverse effect on the historic site. Finally, MHS recommends that we contact the Section 106 Compliance officer, Josef Warhank, regarding any concerns he may have. See Exhibit K, letter from Damon Murdo, Cultural Records Manager, Montana Historical Society. We contacted Mr. Warhank via telephone conversation, and he indicated that the next step is to provide MHS with a clear and detailed description of the undertaking. Mr. Warhank can be reached at: (406) 444-0388. However, in a supplemental correspondence between the MDOT and the Montana State Historic Preservation Office (“MSHPO”), Mr. Warhank indicates that the MSHPO concurs with the MDOT’s finding that the abandonment will have “No Adverse Effect” to the property. See Exhibit L, letter from Jon Axline, Historian, Environmental Services, Montana Department of Transportation.

*(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

There are no known prior subsurface ground disturbance or fill, environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

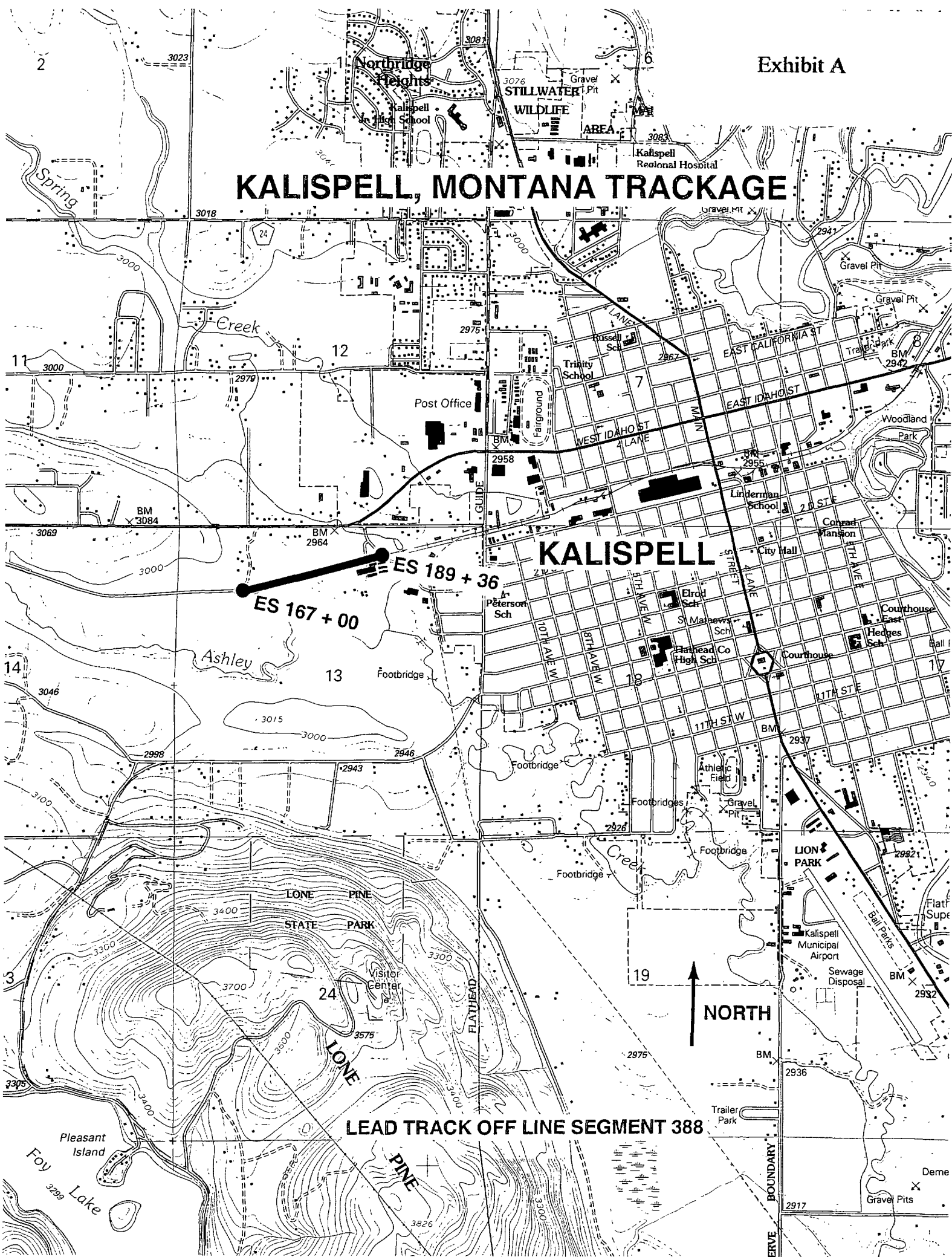
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sid L. Strickland, Jr.", written over the typed name.

By: SIDNEY L. STRICKLAND, JR  
ELIZABETH E. WAITE  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W., Suite 101  
Washington, DC 20007  
(202) 338-1325  
Attorneys for BNSF Railway Company

DATED: August 14, 2006

# KALISPELL, MONTANA TRACKAGE



LEAD TRACK OFF LINE SEGMENT 388

Exhibit B



## City of Kalispell Planning Department

17 - 2<sup>nd</sup> Street East, Suite 211, Kalispell, Montana 59901

Telephone: (406) 751-1850

Fax: (406) 751-1858

Website: kalispellplanning.com

May 12, 2006

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW, Rm 711  
Washington, DC 20423

Re: BNSF Railway Company - Abandonment - Flathead County, Montana STB  
Docket No. AB-6 (Sub. No. 444X)

Dear Mr. Williams:

This comment should be treated as a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of Kalispell which is an incorporated city in the state of Montana which is hereinafter referred to as 'Commenter'.

The railroad right-of-way in this proceeding proposed for abandonment is suitable for railbanking. An existing bike trail is located within an easement on the land proposed for abandonment. Furthermore, this existing bike trail provides a connection between existing and future bike trails planned within the City and areas to the west outside the City. Therefore, Commenter is making the following request:

To obtain the land being abandoned as described in STB Docket No. AB-6 (Sub. No. 444X) for the continued use of an existing city trail. The City of Kalispell acknowledges the fact that a future highway bypass will most likely require the majority of the land within the proposed abandonment however the City is requesting -those lands outside of the highway right-of-way be turned over to the City.

### STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the City of Kalispell is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the BNSF Railway Company and operated by the BNSG Railway Company.

The property extends from engineering station 189 +36 to engineering station 167 + 00 a distance of 0.42 miles near Kalispell in Flathead County, Montana. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub. No. 444X).

A map depicting the right-of-way is attached.

The City of Kalispell acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon BNSF Railway Company, 2600 Lou Menk Drive, Fort Worth, TX 76161 by U.S. Mail, postage prepaid, first class, this day of 2006.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas R. Jentz", is written over a horizontal line.

Thomas R. Jentz, Planning Director

On behalf of the City of Kalispell

C: Flathead County Planning & Zoning



Natural Resources Conservation Service  
Federal Building, Room 443  
10 East Babcock  
Bozeman, MT 59715

Office: (406) 587-6811  
FAX: (406) 587-6761

June 21, 2006

Sidney Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K Street, NW, Suite 101  
Washington, D.C. 20007-5108

Dear Mr. Strickland:

I am responding to your letter inviting comments from the NRCS relative to potential impacts associated with the BNSF Railway Company's Notice of Exemption to abandon a section of railroad line in Kalispell, Flathead County, Montana (STB Docket No. AB-6 (Sub. No. 444X)). As you have noted in your correspondence, the provisions of the National Environmental Policy Act and the Federal Farmland Protection Policy Act (FPPA), require evaluation of important farmland status (prime farmland, farmland of statewide importance, or locally important farmland), when the actions or assistance of a federal agency irreversibly converts (directly or indirectly) farmland.

The proposed abandonment and associated removal of bridges, structures, ties and rails will have no impact on important farmland since this land is considered to be previously converted farmland and the roadbed is to be left intact following abandonment. Therefore, the proposed action does not involve the FPPA. No further action is necessary relative to the FPPA. NRCS has no other comments regarding the proposed abandonment.

A handwritten signature in cursive script that reads "D. James [unclear] acting for".

DAVE WHITE  
State Conservationist

Enclosures:

cc w/encl (Strickland Letter and Project Map):  
Angel Rosario, District Conservationist, NRCS, Kalispell, MT

cc w/o encl:  
Ronald Nadwornick, State Resource Conservationist, NRCS, Bozeman, MT  
Craig Engelhard, Assistant State Conservationist for Field Operations, NRCS, Missoula, MT

**Carlton Curry**

---

**From:** Ben\_Conard@fws.gov  
**Sent:** Monday, May 22, 2006 4:55 PM  
**To:** sidney.strickland@stricklandpllc.com  
**Cc:** Tim\_Bodurtha@fws.gov; Heidi\_VanDuyn@fws.gov; Ben\_Conard@fws.gov  
**Subject:** Reply to May 11, 2006, information request

May 22, 2006

Sidney L. Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K St. N.W., Suite 101  
Washington, DC 20007-5108

Dear Mr. Strickland,

This is in response to your May 11, 2006, written request for information regarding the STB Docket No. AB-6 (Sub. No. 444X), BNSF Railway Company - Abandonment Exemption - in Flathead County, Montana. The proposal involves abandoning a portion of railway described in your letter and possible removal of bridges and structures and removal of track materials. We received your letter on May 18, 2006, and you requested a reply by May 26, 2006. Under the circumstances, please accept this email message as our official reply.

Specifically, you needed to know "whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line and if so, what effects the proposed action may have."

The U.S. Fish and Wildlife Service has determined there are no endangered species issues associated with this project area and thus your proposal should have no effect upon such resources. Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in this project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under U.S. Fish and Wildlife Service jurisdiction.

As you know, Ashley Creek is located in close proximity (to the south) of your project area. Ashley Creek ultimately flows into the Flathead River and Flathead Lake. Without additional details of your proposal, we cannot judge what effect, if any, your proposal would have on Ashley Creek. We trust you are aware of this resource concern and will take appropriate measures if necessary to avoid or minimize your impacts.

We value your effort that seeks to minimize impacts to listed species and aid their recovery. If you have further questions about this email message or your responsibilities under the Endangered Species Act, please contact Ben Conard at 406-758-6878 or Tim Bodurtha at 406-758-6882. Please acknowledge receipt of this message. Thank you.

Sincerely,

Ben Conard  
U.S. Fish and Wildlife Service  
780 Creston Hatchery Road  
Kalispell, MT 59901  
phone: 406-758-6878 email: Ben\_Conard@fws.gov  
visit our website: <montanafielldoffice.fws.gov>

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**

**Exhibit E**

3050 K ST. N.W., SUITE 101  
WASHINGTON, DC 20007-5108  
TELEPHONE: 202-338-1325  
FAX: 202-672-5399

SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

April 28, 2006

U.S. National Park Service  
Intermountain Region  
12795 Alameda Parkway  
Denver, CO 80228

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—  
Abandonment Exemption – in Flathead County, MT***

Dear Sir or Madam:

BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority in the above docket to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana.

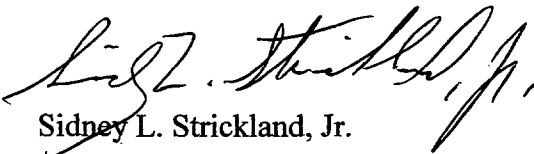
The proposed abandonment may require removal of bridges and structures and the removal of track materials such as rails and ties but the roadbed will be left intact.

As part of the environmental report, BNSF needs to know whether or not there are any wildlife sanctuaries or refuges, National or State parks or forests in the proposed project impact area and if so, what effects would occur as a result of the abandonment.

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by May 26, 2006. If you have any questions, please do not hesitate to contact me at (202) 338-1325.

Thank you in advance for your cooperation.

Sincerely,

  
Sidney L. Strickland, Jr.

Enclosure  
SLS/ew



The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments.

Signed:  Date: 5/14/06

**From:** James\_R\_Sparks@blm.gov  
**Sent:** Tuesday, May 09, 2006 3:26 PM  
**To:** Sidney.Strickland@stricklandpllc.com  
**Subject:** BNSF Railway Company Abandonment Exemption - Flathead County, MT

The BLM does not have surface jurisdiction in the proposed project area. I am also unfamiliar with the area. Please contact Ben Conrad at the Kalispell, MT Suboffice of the U.S. Fish and Wildlife Service. Ben's phone number is: (406) 758-6878.

Jim Sparks  
Wildlife Biologist  
Missoula Field Office,  
Bureau of Land Management



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Username: **Liz Waite**  
(liz.waite@stricklandpllc.com)

**Inbox (26)**

**Drafts**

**Deleted Items**

**Sent**

**Scheduled**

**Delete**

**Delete permanently**

**From:** "Lovelace, Bonnie" <blovelace@mt.gov>  
**To:** Liz Waite <liz.waite@stricklandpllc.com>  
**Subject:** FW: strickland053006  
**Date:** 07-Jul-06 04:19 PM  
**Attachments:** strickland053006.doc

**Reply**

**Reply To All**

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InLine Text

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**Close**

## Message

Liz: Here's the letter response you were expecting. It was sent May 31. However, I will add detail as we discussed. The most typical/likely discharge you would face in abandonment is one of three types of permits. Two MPDES (402) permits would be possible--1) construction dewatering if discharging from construction that has water in it or 2) storm water construction if disturbing more than an acre and discharging is likely. The third is a 318 authorization, a state permit, that addresses in-stream or bank disturbances that create turbidity.

-----Original Message-----

From: Dodd, Jamesa

Sent: Friday, July 07, 2006 1:51 PM

To: Lovelace, Bonnie

Subject: strickland053006

<<strickland053006.doc>>

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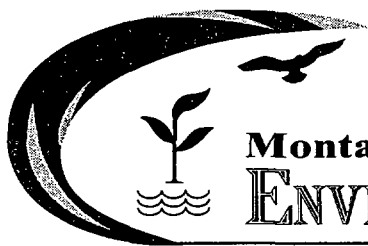
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**Advanced Search**

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**Go**



**Montana Department of  
ENVIRONMENTAL QUALITY**

**Exhibit H**

**Brian Schweitzer, Governor**

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • [www.deq.mt.gov](http://www.deq.mt.gov)

August 3, 2006

Sidney Strickland, Jr.  
Sidney Strickland & Associates, PLLC  
3050 K Street NW Suite 101  
Washington, DC 20007-5108

RE: Environmental Report regarding BNSF's plans for filing a Notice of Exemption for the railroad line in Kalispell, MT.

Dear Mr. Strickland:

The Department is in receipt of your April 28, 2006, letter requesting that the Department identify any permitting requirements or other issues that may be necessary for the above referenced project. I am sorry to be so late in responding. Your letter was misplaced and only found last week.

Pursuant to Section 75-5-402 of the Montana Water Quality Act (WQA), the Department is required to examine plans and other information to determine whether a permit is necessary. In order for the Department to complete this review, the proponent must complete the applicable discharge permit application forms for the proposed activity, provide the information required by the applicable rule and submit the necessary application fees. Alternatively, the applicant may submit detailed plans and specifications on the proposed activity along with a description of the volume and nature of the wastes to be discharged. In accordance with ARM 17.30.201; the fee for review of plans and specifications is one-half of the application fee. Bureau staff is available to assist you in determining the appropriate application requirements.

Based on the information submitted, the Department is unable to determine what permits are necessary for the proposed project. For your convenience I have enclosed a fact sheet that describes water quality related permits for construction activities. Discharge of storm water from: industrial facilities as defined in ARM 17.30.1102(29) and (30); from construction activities as defined in ARM 17.30.1002(28); and from municipal separate storm sewer systems (MS4) as defined in ARM 17.30.1102(23), are subject to the permitting requirement of the Montana Pollutant Discharge Elimination System (MPDES).

In general, the Montana WQA prohibits the discharge of sewage, industrial or other wastes, including sediment, to state waters without a current permit from the Department. The definition of state waters includes any body of water on the surface or

underground (ground water) and includes irrigation systems, ephemeral and intermittent drainage systems, lake, ponds or other waterways. Discharge of wastes to state surface water is regulated under the Montana Pollutant Discharge Elimination System (MPDES) program; a discharge, or potential discharge, to state ground water are regulated under the Montana Ground Water Pollution Control System. The WQA also prohibits the construction, operation or use of an outlet that is used to discharge waters to state water [75-5-605(2), MCA] without a current permit from the Department.

In addition to the general requirements of the WQA, facilities which operate under an MPDES or Montana Ground Water Pollution Control System (MGWPCS) permit have specific notification requirements that are identified in Part III and IV of their permit. The permittee must notify the Bureau in advance of any of the following activities: physical alteration of the treatment system, sludge removal, introduction of non-domestic waste streams, and the modification, addition or relocation of any discharge structure or location. Failure to do so may result in noncompliance with the permit.

Additional information on permitting requirements may be obtained by contacting the Water Protection Bureau at (406) 444-3080 or on the Department's Website at: [www.deq.mt.gov](http://www.deq.mt.gov).

Sincerely,



Jamesa L. Dodd  
Permit Technician  
Compliance and Technical Support Section  
Water Protection Bureau  
Phone: (406) 444-5349 Fax: (406) 444-1374  
[jdodd@mt.gov](mailto:jdodd@mt.gov)



Home Compose Address Book Options Logout

Username: **Ian Thomas**  
(ian.thomas@stricklandpllc.com)

Message

**Inbox (8)**

**Drafts**

**Deleted Items**

**Sent**

**Delete** **Delete permanently**

**From:** "Ramer, Jean L NWO" <Jean.L.Ramer@nwo02.usace.army.mil>

**To:** Ian Thomas <ian.thomas@stricklandpllc.com>

**Subject:** RE: Kalispell Map

**Date:** 12-Jun-06 04:54 PM

**Reply**

**Reply To All**

**Forward**

**InLine Text**

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**Next >** **Close**

**Move to** **Deleted Items**

Dear Ian,  
I looked up this area on our National Wetlands Inventory (NWI) maps and it does not appear that any wetlands exist within the project area. If bridges or culverts are going to be removed from unnamed tributaries or ditches, please ensure that no material is placed either temporarily or permanently in any wetlands or other waters of the US.

Jean Ramer  
Project Manager  
US Army Corps of Engineers  
Helena Regulatory Office  
10 West 15th Street, Suite 2200  
Helena, Montana 59626  
Phone (406) 441-1378  
Fax (406) 441-1380

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-----Original Message-----

**From:** Ian Thomas [mailto:ian.thomas@stricklandpllc.com]

**Sent:** Monday, June 12, 2006 12:59 PM

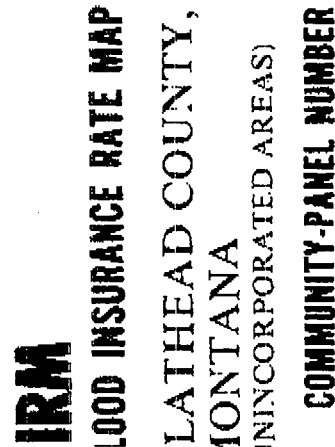
**To:** Ramer, Jean L NWO

**Subject:** Kalispell Map

Ms. Ramer,

Attached is the map for the Kalispell, MT abandonment. Thank you for your cooperation.

**City of Kalispell**  
**AREA NOT INCLUDED**





# MONTANA HISTORICAL SOCIETY

225 North Roberts ♦ P.O. Box 201201 ♦ Helena, MT 59620-1201  
♦ (406) 444-2694 ♦ FAX (406) 444-2696 ♦ [www.montanahistoricalsociety.org](http://www.montanahistoricalsociety.org) ♦

May 8, 2006

Exhibit K

Sidney L. Strickland  
Sidney Strickland & Associates  
3050 K St. NW, Suite 101  
Washington DC 20007-5108

RE: STB DOCKET NO. AB-6 (SUB. NO. 444X), BNSF RAILWAY COMPANY -  
ABANDONMENT EXEMPTION - IN FLATHEAD COUNTY MT. SHPO Project #:  
2006050801

Dear Sidney:

I have conducted a cultural resource file search for the above-cited project located in Section 13, T28N R22W. According to our records there has been one previously recorded site within the designated search locale. Site 24FH0350 is the historic Great Northern railroad. This railroad is eligible for listing on the National Register of Historic Places. The absence of more cultural properties in the area does not mean that they do not exist but rather may reflect the absence of any previous cultural resource inventories in the area, as our records indicated none.

We feel that the abandonment and removal of the track materials may have an adverse effect on this historic site. We would ask that you contact our Section 106 Compliance officer, Josef Warhank, for any concerns that he may have. He may be reached at 406-444-0388. Thank you for consulting with us.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at [dmurdo@mt.gov](mailto:dmurdo@mt.gov).

Sincerely,

  
Damon Murdo  
Cultural Records Manager

File: STB/2006



STATE HISTORIC PRESERVATION OFFICE ♦ 1410 8<sup>th</sup> Ave ♦ P.O. Box 201202 ♦ Helena, MT 59620-1202  
♦ (406) 444-7715 ♦ FAX (406) 444-6575

2006



## Montana Department of Transportation

2701 Prospect Avenue  
PO Box 201001  
Helena MT 59620-1001

RECEIVED Governor

JUL 24 2006

ENVIRONMENTAL

July 12, 2006

Mark Baumler, Ph.D.  
State Historic Preservation Office  
1410 8<sup>th</sup> Avenue  
P O Box 201202  
Helena, MT 59620-1202

Subject: NH-MT 5-3(59)109F  
Kalispell Bypass  
Control No. 2038

CONCUR  
MONTANA SHPO

DATE 2006/06 SIGNED *[Signature]*

Dear Mark:

Enclosed is the Determination of Effect for a section of the Great Northern Railway's Somers - Kalispell Line (24FH350). We have determined that the abandonment of a 2,236± section of the line west of the "wye" would have No Adverse Effect to the property for the reasons specified in the document. We request your concurrence.

If you have any questions, please contact me at 444-6258.

*[Signature]*  
Jon Axline, Historian  
Environmental Services

Enclosure

cc: Dwane Kailey, P.E., Missoula District Administrator  
Tom Martin, P.E., Consultant Design  
Bonnie Steg, Resources Section

**CERTIFICATION PURSUANT TO 49 C.F.R.1105.7(c) and 8(c)**

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on August 14, 2006, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington D.C. 20423-0001

Dave White  
USDA Natural Resource Conservation Service  
443 Federal Building  
10 East Babcock Street  
Bozeman, MT 59715

Damon Murdo  
Montana Historical Society  
225 North Roberts  
P.O. Box 201202  
Helena, MT 59620-1202

Josef Warhank  
State Historic Preservation Office  
1410 8<sup>th</sup> Avenue  
P.O. Box 201202  
Helena, MT 59620-1202

U.S. Army Corps of Engineers  
Seattle District  
P.O. Box 3755  
Seattle, WA 98124-3755

U.S. Fish and Wildlife Service  
Region 6  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

Jamesa L. Dodd  
Water Protection Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620

Jean Ramer  
U.S. Army Corps of Engineers  
Helena Regulatory Office  
10 West 15<sup>th</sup> Street, Suite 2200  
Helena, MT 59626

Jim Sparks, Wildlife Biologist  
Bureau of Land Management  
Missoula Field Office  
3255 Fort Missoula Road  
Missoula, Montana 59801

Montana Fish, Wildlife & Parks  
1420 E. 6<sup>th</sup> Ave.  
P.O. Box 200701  
Helena, MT 59620-0701

Tom Jentz  
City of Kalispell Planning Department  
17-2nd Street East, Suite 211  
Kalispell, MT 59001

Kurt McCormick  
U.S. Environmental Protection Agency  
Region 8  
999 18th Street  
Suite 300  
Denver, CO 80202-2466

Flathead County Commissioners Office  
800 South Main  
Kalispell, MT 59901

Tom Stayert  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

Cheryl Eckhardt  
U.S. National Park Service  
Intermountain Region  
12795 Alameda Parkway  
Denver, CO 80228

Ben Conrad  
U.S. Fish and Wildlife Service, Region 6  
Kalispell Ecological Services Sub-Office  
780 Creston Hatchery Road  
Kalispell, MT 59901-8239

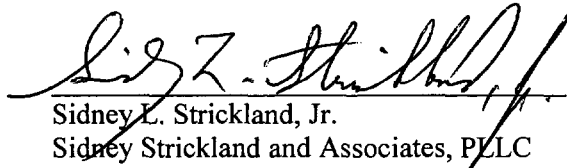
Gael Bissell, Wildlife Biologist  
Montana Fish, Wildlife, and Parks  
490 N. Meridian Road  
Kalispell, MT 59901

George Smith  
Flathead County Planning and Zoning Office  
1035 1st Avenue West  
Kalispell, MT 59901

National Oceanic and Atmospheric Administration  
National Geodetic Survey  
1315 East-West Highway  
Silver Springs, MD 20910-3282

Jon Axline  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.



Sidney L. Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K St. N.W.,  
Suite 101  
Washington, D.C. 20007

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August 14, 2006

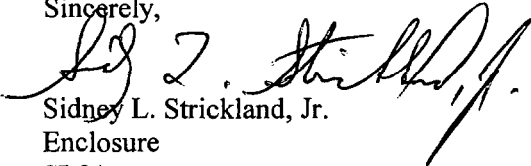
Ms. Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington D.C. 20423-0001

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Ms. Rutson:

On or about September 5, 2006, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Sincerely,

  
Sidney L. Strickland, Jr.  
Enclosure  
SLS/ew

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WASHINGTON, DC 20007-5108  
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August 14, 2006

Dave White  
USDA Natural Resource Conservation Service  
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10 East Babcock Street  
Bozeman, MT 59715

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. White:

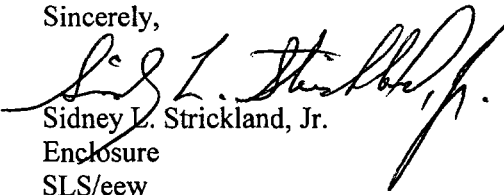
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Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned by telephone at (202) 338-1325 or by mail at Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

Thank you in advance for your cooperation.

Sincerely,

  
Sidney L. Strickland, Jr.  
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August 14, 2006

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Helena, MT 59620-1202

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. Murdo:

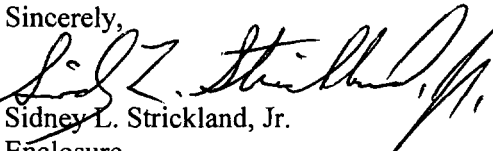
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August 14, 2006

Josef Warhank  
State Historic Preservation Office  
1410 8<sup>th</sup> Avenue  
P.O. Box 201202  
Helena, MT 59620-1202

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. Warhank:

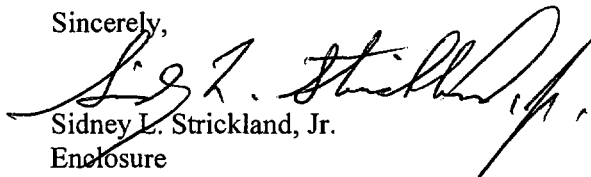
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August 14, 2006

U.S. Army Corps of Engineers  
Seattle District  
P.O. Box 3755  
Seattle, WA 98124-3755

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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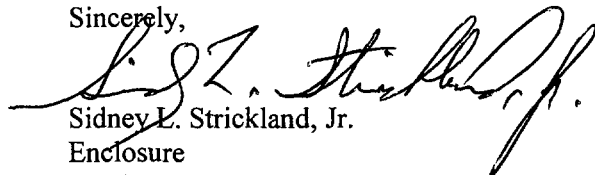
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U.S. Fish and Wildlife Service  
Region 6  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

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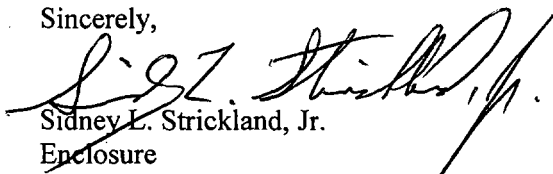
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August 14, 2006

Jamesa L. Dodd  
Water Protection Bureau  
Department of Environmental Quality  
P.O. Box 200901  
Helena, MT 59620

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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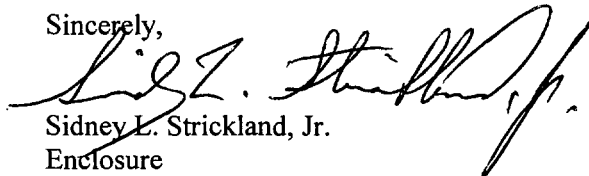
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August 14, 2006

Jean Ramer  
U.S. Army Corps of Engineers  
Helena Regulatory Office  
10 West 15<sup>th</sup> Street, Suite 2200  
Helena, MT 59626

Army Corps Tracking # 200690495

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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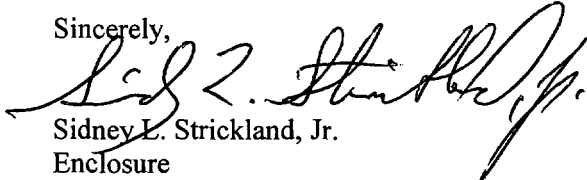
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August 14, 2006

Jim Sparks, Wildlife Biologist  
Bureau of Land Management  
Missoula Field Office  
3255 Fort Missoula Road  
Missoula, Montana 59801

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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Dear Mr. Sparks:

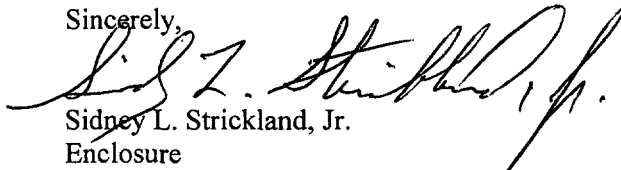
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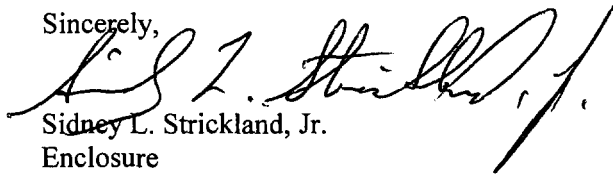
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SIDNEY L. STRICKLAND, JR.  
[Sidney.Strickland@stricklandpllc.com](mailto:Sidney.Strickland@stricklandpllc.com)

August 14, 2006

Tom Jentz  
City of Kalispell Planning Department  
17-2<sup>nd</sup> Street East, Suite 211  
Kalispell, MT 59001

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. Jentz:

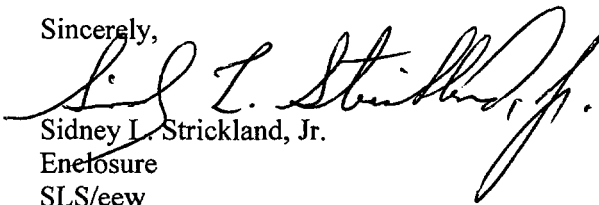
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Thank you in advance for your cooperation.

Sincerely,

  
Sidney L. Strickland, Jr.  
Enclosure  
SLS/eew

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**  
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**WASHINGTON, DC 20007-5108**  
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SIDNEY L. STRICKLAND, JR.  
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August 14, 2006

Kurt McCormick  
U.S. Environmental Protection Agency  
Region 8  
999 18<sup>th</sup> Street  
Suite 300  
Denver, CO 80202-2466

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. McCormick:

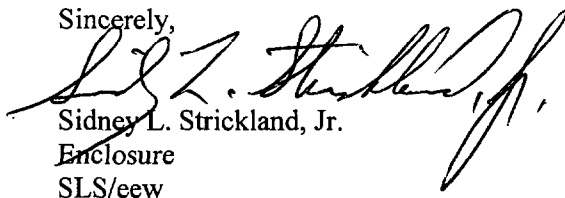
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[Sidney.Strickland@stricklandpllc.com](mailto:Sidney.Strickland@stricklandpllc.com)

August 14, 2006

Flathead County Commissioners Office  
800 South Main  
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Sirs and Madams:

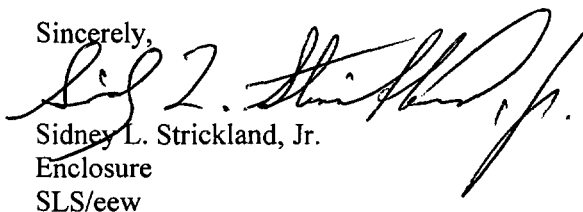
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SIDNEY L. STRICKLAND, JR.  
[Sidney.Strickland@stricklandpllc.com](mailto:Sidney.Strickland@stricklandpllc.com)

August 14, 2006

Tom Stayert  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. Stayert:

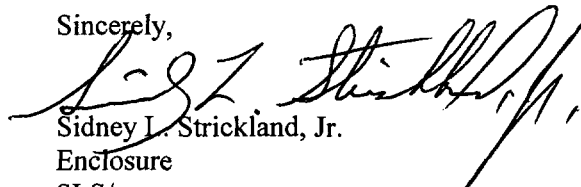
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SIDNEY L. STRICKLAND, JR.  
[Sidney.Strickland@stricklandpllc.com](mailto:Sidney.Strickland@stricklandpllc.com)

August 14, 2006

Cheryl Eckhardt  
U.S. National Park Service  
Intermountain Region  
12795 Alameda Parkway  
Denver, CO 80228

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Ms. Eckhardt:

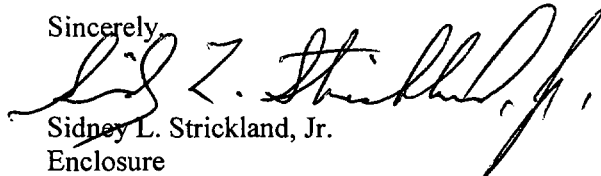
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SIDNEY L. STRICKLAND, JR.  
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August 14, 2006

Ben Conrad  
U.S. Fish and Wildlife Service, Region 6  
Kalispell Ecological Services Sub-Office  
780 Creston Hatchery Road  
Kalispell, MT 59901-8239

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
Exemption – in Flathead County, MT***

Dear Mr. Conrad:

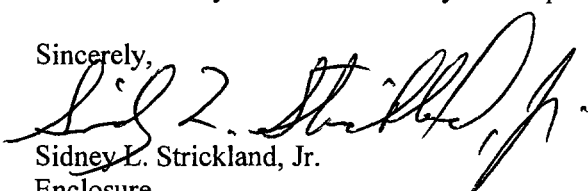
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August 14, 2006

Gael Bissell, Wildlife Biologist  
Montana Fish, Wildlife, and Parks  
490 N. Meridian Road  
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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Dear Ms. Bissell:

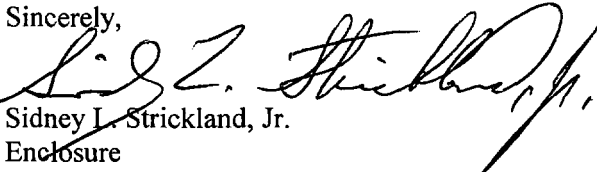
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August 14, 2006

George Smith  
Flathead County Planning and Zoning Office  
1035 1<sup>st</sup> Avenue West  
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment  
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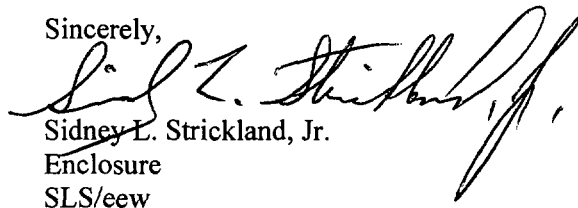
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August 14, 2006

National Oceanic and Atmospheric Administration  
National Geodetic Survey  
1315 East-West Highway  
Silver Springs, MD 20910-3282

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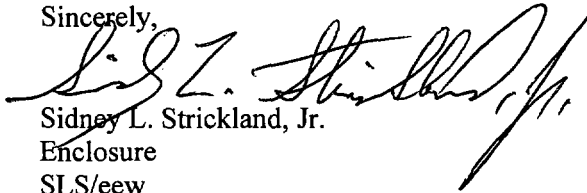
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August 14, 2006

Jon Axline  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, MT 59620-1001

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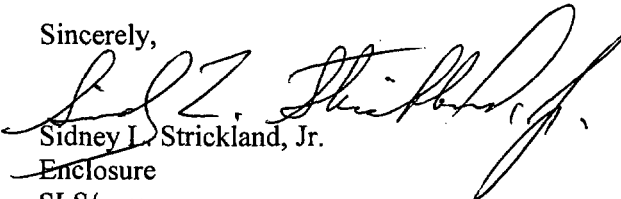
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